IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3751 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE R.S.GARG

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SUMAN M DESAI

Versus

BANK OF INDIA

Appearance:

1. Special Civil Application No. 3751 of 2001

MR GIRISH PATEL, SR.ADVOCATE with
MR AJ YAGNIK for Petitioner No. 1
NANAVATI ASSOCIATES for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE R.S.GARG

Date of decision: 19/04/2005

ORAL JUDGEMENT

#. Heard learned counsel for the parties.

#. The petitioner is before this Court under Article 226 of the Constitution of India with a prayer that the respondents be restrained from conducting departmental inquiry against the interest of the petitioner on the strength and foundation of the chargesheet issued on 24.4.2001.

#. The submission is that in relation to certain incidents from the year 1970 to 1989, the petitioner was chargesheeted on 6.11.1996 and after a full-fledged inquiry, certain punishments were awarded on him, which were later on reduced on appeal and, on basis of the very same material and the incidents relating to the period from 1970 to 1989, second chargesheet on 24.4.2001 has been issued to the petitioner. The submission is that the present is a case of double jeopardy and the petitioner cannot be subjected to unnecessary harassment under the name of the second inquiry. It is also submitted in the writ application that the authorities of the Bank are displeased with the petitioner, because, on the first occasion, the punishment of dismissal was reduced and the petitioner was allowed to be reinstated.

#. On the other hand, learned counsel for the respondents submitted that a fair perusal of the chargesheets dated 6.11.1996 and 24.4.2001 would show that the charges are separate and distinct. His submission is that the charges cannot be said to be intrinsically connected and if charge is proved, it can lead to punishment.

#. In the chargesheet dated 6.11.1996, four charges were levelled against the petitioner, while in the chargesheet dated 24.4.2001, two charges have been levelled. In the present chargesheet, the charges levelled against the petitioner are that he asked for and received from the company namely M/s. Gujarat Industrial Trucks Limited a sum of Rs.60/- for his each visit after banking hours and Rs.120/- for his each visit for a holiday to visit the godowns. The second charge is that he lent a sum of Rs.1.05 lacs to the said transport Limited for having earmarked pledged limit with the Bank and the petitioner charged interest at the rate of 3% per month from the said Company for the said loan and the Company had paid the petitioner a sum of Rs. 1,09,578/- being the interest for three years and the Company returned a sum of Rs.1.05 lacs to the petitioner in four installments.

#. I asked the learned counsel for the petitioner to read any of the charges in the first chargesheet. The learned counsel for the petitioner, after going through

the first chargesheet submitted, rather was forced to admit that the charges levelled in the second chargesheet are not detailed, described or mentioned in the first chargesheet. His submission, however, was that the evidence in relation to the illegal gain or demand of the bribe or deposit of the money or receipt of the interest was part of the first chargesheet, therefore, the second chargesheet is bad on facts and in law. In the opinion of this Court, the charges levelled in the first chargesheet were altogether different. In the first chargesheet, the first charge was that the petitioner made deposits of Rs.25,000/-, 80,000/-, Rs.20,000/- and Rs.25,000/- in the name of his relations with Gujarat Industrial Trucks Limited. The second charge was that, in his design to suppress his financial dealings with M/s. GIT Limited and in order to effect recovery of his investments/funds, he surreptitiously with malafide intention collected two cheques and subsequently posing himself as one S.R. Patel, encashed those two cheques which were for Rs.4650/- and Rs. 25,000/-. The present charge has nothing to do with that.

#. Third charge was that in gross abuse of his position, as Special Assistant, he having access to the records of the Bank, destroyed six ledger pages from two S/B ledgers pertaining to his S/B a/c no. 45865. The present charge has nothing to do with the earlier charge.

#. The fourth charge that was levelled was that for facilitating speculative transactions in share purchase/sales, investment in M/s.GIT Ltd., financing C/C /C/D a/c holders of the branch, as also customers/staff members, the petitioner had opened four accounts in addition to salary S/B account in the name of self or jointly with his father/brother-in-law and wife. The present charge again has nothing to do with the earlier levelled charge.

#. In the opinion of this Court, when the charges are distinct and separate, then simply because some evidence would be common, would be no ground to quash the subsequent chargesheet. A feeble attempt was also made to submit that looking to the delay in issuing the chargesheet, this Court should interfere in the matter and quash the chargesheet.

##. True it is, that the alleged misconduct is in relation to the period between 1970 to 1989, but the fact still remains is that the charges levelled against the petitioner are of serious nature. If the Bank cannot bank upon its employee, it would certainly be entitled to

issue a chargesheet, make an inquiry and pass appropriate order. The charges in the present matter are in relation to illegal gratification or demand of money to which the petitioner as bank employee was not entitled. The charges also are that he had lent money and was charging 36% interest per year and in a period of three years, he could collect the interest more than the principal amount from one of the customers of the Bank.

##. I find no reason to interfere. The petition is dismissed. Rule is discharged. Stay earlier granted is vacated.

[R.S. GARG, J.]
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